

Application No. 10/568,800
Amendment dated June 9, 2009
Reply to Office Action of March 9, 2009

Docket No.: 66967-0008

AMENDMENTS TO THE DRAWINGS

The attached sheet(s) of drawings includes changes to FIGS. 2a, 2b, 3a, 3c.

Attachment: Replacement sheets

REMARKS

Applicant has carefully reviewed the Office Action mailed March 9, 2009, and thanks Examiner Binda for the detailed review of the pending claims. In response to the Office Action, Applicant has amended claim 5, and cancelled claims 6, 8, 10 and 11. Claims 1-4 were previously cancelled. By way of this amendment, no new matter has been added. Accordingly, claims 5, 7 and 9 remain pending in this application. At least for the reasons set forth below, Applicant respectfully traverses the foregoing rejections.

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicant expressly does not acquiesce to the taking of Official Notice, and respectfully requests that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. Applicant respectfully requests reconsideration of the present application in view of the above amendment, and the following remarks.

Drawings

FIGS. 2a and 2b were objected to as using reference numerals to identify modifications. Applicant has corrected FIGS. 2a and 2b by adjusting the reference numbers of the prior art joint part (shown in Figure 2b) by increasing each by 100 in order to differentiate from the representative embodiment shown of the inventive joint (shown in Figure 2a). Furthermore, Applicant has corrected dimensions X1 and X2. The dimensions X1 and X1' refer to the prior art joint, whereas the dimensions X2 and X2' refer to the representative embodiment of the inventive joint. FIG. 3a and 3b have also been amended to reflect the X1 and X2 dimensions. Accordingly, withdrawal of this objection is respectfully requested.

Specification

The Examiner objected to the disclosure for various typographical errors related to reference characters X1, X2, 18 and 19. Applicant has amended paragraphs [0018] thru [0020] for consistency and clarity, as well as to correct typographical errors with reference characters X1, X2, 18 and 19, as noted by the Examiner. Withdrawal of this objection is respectfully requested.

Further, the Examiner objects to the specification for failing to provide proper antecedent basis for the subject matter in claims 7 and 8. Applicant disagrees with Examiner that claims 7 and 8 fail to provide proper antecedent basis. Claim 7 specifically adds the limitation that the "joint comprises an even number of balls of at least eight balls" support for this can be found at least in paragraph [0006] of the specification, as well as in FIGS. 3b and 3d. Claim 8 has been cancelled as duplicative of claim 7. Thus, the Examiner's objection is moot with respect to claim 9. Withdrawal of these objections is respectfully requested.

Claim Rejection – 35 U.S.C. § 102

1. The Law

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

i. **Ouchi cannot anticipate Applicants' Independent claim 5**

Claims 5-11 were rejected under 35 U.S.C. 102(b) as being anticipated by *Ouchi et. al* (U.S. Patent App. No. 2001/0024975) (hereinafter, *Ouchi*). Applicants respectfully traverse the rejection.

As an initial matter, the *Ouchi* reference fails to teach a twin ball joint, as expressly claimed by Applicants in claim 5. Indeed, Applicant's invention, as defined by independent claim 5, is "a constant velocity twin ball joint comprising: ... circumferentially adjoining pairs of tracks compris[ing] center lines of the outer and inner ball tracks which, when the first and second axes are aligned, are positioned in planes which extend parallel relative to one another and are symmetric relative to the first and second axes." As seen in FIGs. 3b or 3d below, a web is positioned between the balls 14 has a constant width over its length, thereby keeping the respective ball tracks parallel to each other.

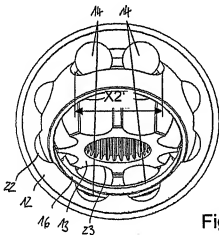


Fig. 3b

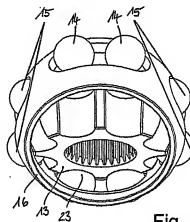


Fig. 3d

In contrast to claim 5, *Ouchi* teaches a conventional constant velocity joint having ball tracks which are arranged in radial planes. See FIG. 24 and Paragraph [0010]. For this reason alone, claim 5 is patentably distinct from *Ouchi*.

With respect to other limitations in the claim 5, the Examiner is referencing different embodiments disclosed in *Ouchi* in support of an anticipation rejection. Such a practice is improper. More specifically, for an anticipation rejection, the elements in the prior art must be disclosed as they are "arranged in the claim." See *Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d

1359 (Fed. Cir. 2008)(reversing summary judgment of anticipation). By picking and choosing elements between varying embodiments of *Ouchi*, the elements are clearly not disclosed as they are arranged in claim 5. For this separate reason, claim 5 cannot be anticipated.

Further, there are several limitations in claim 5 that are simply not present in *Ouchi*. In the Office Action, the Examiner specifically refers to the embodiment of FIGS. 10 and 11 of *Ouchi* to teach certain limitations. However, the embodiment of FIGS. 10 and 11 illustrate that the cage comprises first cage windows 310e with a longer length in which there are held three balls 304, and shorter cage windows 310d in which there are held two balls. Thus, *Ouchi* fails to teach “a ball cage between the outer joint part and the inner joint part and comprising circumferentially distributed cage windows which each cage window accommodates a pair of balls” as expressly claimed by Applicant’s independent claim 5. Therefore, for at least this separate reason Applicants’ independent claim 5 is not anticipated by *Ouchi*.

In the Office Action, the Examiner also specifically refers to two *varying* embodiments of FIGS. 12A and 12B of *Ouchi* to teach certain other limitations. Indeed, as stated in paragraph [0094] of *Ouchi*, FIG. 12A shows “a preferable working” and FIG. 12B shows an “unpreferable working.” However, as seen in FIGS. 12A and 12B, the windows (310e, 310d) disclosed in each separate embodiment have the same circumferential length. Thus, the ball cages of *Ouchi*, shown in Figures 12A, 12B, both fail to teach, disclose or even suggest, “wherein a circumferential length of second cage windows for second pairs of balls is smaller than a circumferential length of first cage windows for first pairs of balls” as claimed by Applicant’s independent claim 5. Therefore, for at least this separate reason Applicant’s independent claim 5 is not anticipated by *Ouchi*.

The embodiments of FIGS. 12A and 12B also teach away from claim 5 in that paragraph [0184] expressly teaches that the two inside surfaces of the cage pockets 310d, 310e shall not be parallel to one another. In contrast to this express teaching, claim 5 requires that the pairs of ball tracks are arranged in parallel planes. Thus, the side faces of the cage also need to be in parallel planes. For this separate reason, claim 5 is patentable over *Ouchi*.

Therefore, *Ouchi* fails to teach or suggest a constant velocity joint with a twin ball joint with pairs of first and second ball windows having different lengths, and wherein the webs between the first and second ball windows have the same width. As described in the specification, this claimed

arrangement achieves a twin ball joint which is easy to manufacture, since each two parallel ball tracks can be produced the same time, which cage has an increased strength so that the overall durability (life-time) of the twin ball joint is improved. See, e.g., [0004]. Therefore, withdrawal of the rejection of claim 5 is requested.

Dependent claims 7 and 9 depend upon claim 5 and are patentable over *Ouchi* simply by virtue of there dependency upon claim 5. The remainder of the dependent claims have been cancelling, rendering the rejection moot with respect to those claims (6, 8, 10-11). Withdrawal of the rejection with respect to claims 5, 7 and 9 is therefore respectfully requested.

CONCLUSION

In view of the above amendment and remarks, the pending application is in condition for allowance. If, however, there are any outstanding issues that can be resolved by telephone conference, the Examiner is earnestly encouraged to telephone the undersigned representative.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66967-0008 from which the undersigned is authorized to draw.

Dated: June 9, 2009

Respectfully submitted,

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Attachments

R0631515.DOC

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REPLACEMENT SHEET